

**OFFICIAL MINUTES OF THE
STATE OF IOWA COMMISSION OF ELDER AFFAIRS
January 14, 2004**

Present: Harold Davis
Hazel Chuck
Craig Downing
J. Russell Lowe
Jane Paulsen
Senator Joe Bolkcom
Senator David Johnson
Representative Linda Upmeyer

ABSENT: Clemmie Hightower
Yogesh Shah
Representative Todd Taylor

Other DEA Staff Present: Mark Haverland, Mary Ann Young, Sherry James, Debi Meyers.
(See sign in sheets for others in attendance.)

Call to Order

The business meeting of the Commission of Elder Affairs was held on January 14, 2004 at the Northwest Senior Center in Des Moines. Chairperson Harold Davis called the meeting to order at 9:00 am and welcomed the visitors. He reported Commissioner Clemmie Hightower is ill and staying with family in Washington DC.

The Recording Secretary conducted roll call. The following Commissioner's answered roll call: Harold Davis, Hazel Chuck, Russell Lowe, Craig Downing, Dr. Jane Paulsen, Senator Joe Bolkcom, Senator David Johnson, Representative Linda Upmeyer. A quorum was present.

Agenda

Chair Davis reported there was one amendment to the agenda. There will be a "public comment" item added to the agenda following "other" to allow those in attendance to have an opportunity to speak to the Commissioners.

Action: Commissioner Downing moved, Commissioner Lowe seconded, to approve the agenda as amended. A roll call vote resulted in all members present voting "aye".

Minutes

Action: Commissioner Paulsen moved, Commissioner Lowe seconded, to approve the minutes of November 18, December 11, and December 12, 2003 as written. A roll call vote resulted in all members present voting "aye".

Director's Report

Director Haverland reported the Governor is expected to present his '05 budget on Friday, January 16th. The department submitted a status quo budget. The Governor has included education and healthcare for the elderly in his priorities.

Mark reported the Department is working with AARP to finalize the sites and dates for the regional town meetings to be held this winter. This will give the public an opportunity to respond to the draft Long Term Care Plan. The LTC plan will be presented to the Senior Living Coordinator Unit for consideration.

Administrative Rules

Chapter 8 - Jeanne Yordi, Regional Long Term Care Ombudsman, reported a public hearing was held to receive comments regarding Chapter 8, Long-Term Care Ombudsman. She reviewed the changes that were implemented in response to those comments. She reported there was some confusion with the industry regarding "resident's advocate" and "resident advocates". Mark thanked the Ombudsman department for their work in writing this rule and meeting with the workgroups in a professional manner to explain the details of this rule. There originally appeared to be some paranoia and suspicion regarding using volunteers to assist the Ombudsman to be able to do their professional jobs; however, Jeannie reassured the industry groups that there would be sufficient education and training with the volunteers.

Action: Commissioner Downing moved, Commissioner Lowe seconded, to approve and adopt Chapter 8 as written. A roll call vote resulted in all members present voting "aye".

Chapter 9 - Debi Meyers, State Long Term Care Ombudsman, reported a public hearing was held to receive comments regarding Chapter 9, Resident Advocate Committees. Senator Bolkcom stated he felt with the history of RAC, the program had gone very well with the given resources from the state. He felt it had been notoriously underfunded. He appreciated the work the department did in writing the rules; however, he expressed concern of relying on volunteers to do this important work with limited resources for training and educating the volunteers. He questioned if at some point the department should consider shutting the program down or finding other ways to get additional staff.

Debi reported she is finalizing the annual Ombudsman report and there continues to be an increase in reported incidents. The reports for 2003 increased 19%. The industries are supportive of this program and realize the importance of having interaction with the residents to advocate on their behalf.

There was discussion regarding the recent decision made by the AAA Directors to terminate RAC in their agencies. The Directors have the discretion to continue with RAC-like services using funds from other sources.

Action: Commissioner Downing reported he felt RAC was a good program however, it had never been sufficiently funded. He moved to approve and adopt Chapter 9 as written. Commissioner Lowe seconded the motion. A roll call voted resulted in all commissioners present voting "aye".

Chapter 25 (Assisted Living Programs) – Mark reported due to the comments received at the Public Hearing and Administrative Rules Review Committee, he recommended terminating the current notice for Chapter 25 and putting a hold on Chapters 24 (Adult Day Services), 26 (Complaints/monitoring) and 27 (Fees) at this time.

Action: Commissioner Chuck moved, Commissioner Downing seconded, to terminate the current notice for Chapter 25. A roll call vote resulted in all members present voting "aye".

Mark reviewed a matrix for a renoticed Chapter 25 detailing the rule citations, comments received and department response. The commission also reviewed the proposed annotated Chapter 25.

Section 25.23(3) – There was confusion regarding "clear and understandable". Dr. Paulson reported that policies and procedures for healthcare are written on a "6th grade reading level" as directed by their state association.

Action: Commissioner Downing moved, Commissioner Lowe seconded, to rewrite Section 25.23(3) to read as follows: "The occupancy agreement shall be in 12 point type or larger, and be written in language using plain, commonly understood terms at or below a 6th grade reading level." A roll call vote resulted in all commissioners present voting "aye".

Section 25.23(7) – Senator Bolkcom requested to remove "and documents listed in 25.23(4)". Mark reported this wasn't to be part of the marketing material, it was clarification in the rules directing the programs that their basic marketing material shall include those items listed in Rule 25.23(4). No change was necessary.

Section 25.29(3) – There was discussion regarding the multidisciplinary team and who should be required to be a member of that team.

Action: Commissioner Paulsen moved, Commissioner Lowe seconded, the language be revised to state a "health care professional be required as a member of the multidisciplinary team and other staff as appropriate to meet the needs of the tenant." A roll call vote resulted in all commissioners present voting "aye".

Section 25.30(2) – Mary Ann reported the public expressed a concern that the nurse delegation requirement was too restrictive. Dr. Paulsen suggested the language be written in accordance with the current Nurse Practice Act to reflect LPN role in medication delivery.

Action: Commissioner Chuck moved, Commissioner Lowe seconded, to direct the department to make the recommended changes to Chapter 25 Assisted Living Program Administrative Rule and file them for intended action. A roll call vote resulted in all commissioners present voting "aye".

Senator Bolkcom questioned if the fees stated in Chapter 27 would allow the facilities to cover their costs including food, utilities, etc. Mark replied that these fees are set by the legislators.

Chapters 1, 3, 11, 16, 17, 18 – Mary Ann Young reviewed the major revisions to these rules. Some items were moved to other chapters and some only included technical changes of addresses and telephone numbers. She reported that Chapter 16 is the Senior Living Coordinating Unit and the major change is the IDEA Director would always remain the chair versus rotation of those Directors in the Unit.

Action: Commissioner Downing moved, Commissioner Lowe seconded, to file Chapters 1, 3, 11, 16, 17 and 18 as intended action. A roll call vote resulted in all commissioners present voting "aye".

Other

Commissioner Paulsen reported she was resigning her position as DEA Commissioner due to attendance requirements in the Iowa Code. She expressed that she is very invested in the DEA activities and the care of older Iowans. She is disappointed that her schedule has permitted her from being as active as she would have liked. She promised the commissioners that she would continue her commitment to the elderly through her work at the University of Iowa and continued research in the Department of Psychiatry Research.

Chair Davis requested to have someone of Dr. Paulsen's expertise as her replacement. Recognition will be held for Dr. Paulsen's years of service as a Department Commissioner.

Public Comment

Kristy Oliver, Iowa Association of Homes and Services for the Aging, commended the department in their efforts of the rules review. She expressed appreciation to Jeanne Yordi and Debi Meyers for meeting with the industry groups to explain their proposed changes regarding Chapter 9, RAC. She also pleaded for additional funding for RAC and the importance of the program. Kristy thanked the department for their time and commitment to the public for suggestions for Chapter 25, Assisted Living.

Bob Welsh, Johnson County Task Force, commented that he understood there were a couple of Area Agencies that desired to continue with RAC and asked if they would receive any funding from the department for this program. Mark reported the details of the funding have not been resolved at this time.

Mr. Welsh also questioned the Quality Improvement Section being eliminated from the Rules. Mark reported the language was beyond statutory intent.

Cindy Haverkamp, Iowa Healthcare Association, commented on the changing of the language in Chapter 25 regarding "six grade reading level" in the fact that the administrative rules are also a legal document and even using the term HIPPA will confuse the general public. She reported the language needed to necessarily include required language for the landlord/tenant laws.

Cindy also expressed concern in 25.41(e) that removes "dementia specific assisted living" from the sentence in questioning if all assisted living facilities are currently built at a minimum of Type V construction or if this would cause them to have to do remodeling.

Adjournment

The next Commissioner's meeting will be scheduled in March. There being no further business to be discussed at this time, the meeting adjourned at 11:10 am.

Chair

Date

Recording Secretary

Date